

External Voting Rights for Nepalis Abroad: Reflections from International Practices¹

Khagendra Raj Dhakal, and Isha Mandal²

Nepal Policy Institute

Executive Summary

It is estimated that seven million Nepalis are living and working abroad, the majority of whom are migrant workers who contribute substantially to the country's economy by sending in remittances (worth approximately 27% of Nepal's GDP, as of 2020). Nepalis abroad, however, currently are not in a position to exercise their constitutionally guaranteed right to vote in elections in Nepal. Despite a 2018 Supreme Court directive, no progress has been made in terms of drafting the necessary legislative arrangements to enable Nepalis living abroad to enjoy the right to vote.

More than 150 countries around the world have a legal framework for external (ie, out-of-country) voting. This includes many countries that are just as, or even more, constrained and capacity challenged as Nepal. This Policy Brief details some of the provisions that different jurisdictions have in place and analyzes the implications for Nepal.

In using Indonesia as the primary case study, supported by evidence of provisions from countries like Estonia and France, the Policy Brief recommends i-Voting (internet-based voting) as an efficient and economical method of external voting for Nepal. In making this recommendation, the Brief acknowledges the security, financial, and administrative constraints attached with in-person ballot voting (paper based and/or electronic) in Nepal embassies and consulates abroad. It is acknowledged that even as i-Voting holds great promise, there are still specific caveats to be addressed, including changing existing pieces of election related legislation. The Foreign Employment Information Management System (FEIMS) database is also particularly helpful in this regard, but to optimize its usage there is need for substantial collaboration among the Ministry of Labor, Employment, and Social Security; Ministry of Foreign Affairs; and Election Commission Nepal.

¹ This Policy Brief benefits from the views expressed by several experts on this subject at a webinar organized by the Nepal Policy Institute on 13 February 2022 (<https://www.youtube.com/watch?v=lbvWgeQPSo0>); senior experts included Mr. Neel Kantha Uprety (former Chief Commissioner of the Election Commission), Mr. Dinesh Tripathi (Senior Advocate, Supreme Court of Nepal), and Prof. Achyut Wagle (Associate Dean of the Kathmandu University School of Management). NPI's Ms. Sharu Joshi moderated the event, and also made contributions to the debate. Other practitioners that are directly involved in this particular subject on the ground, both in Nepal and in other countries such as Saudi Arabia, Malaysia, and India also provided valuable information on ground-level realities on this matter. This note has been peer-reviewed by, among others, Mr. Neel Kantha Uprety, Mr. Bhojraj Pokharel (former Chief Commissioner, Election Commission of Nepal), Mr. Barun Ghimire (Program Manager, Law and Policy Forum for Social Justice), and Ms. Radhika Regmi, Deputy Country Director, IFES, Nepal, whom NPI wishes to thank.

² Chair of the Board of Directors and Management Associate respectively at Nepal Policy Institute.

Introduction

It is estimated that more than 7 million Nepalis are living and working in different parts of the world,³ but primarily in the countries of the Gulf and in Southeast Asia. They contribute substantially to the country's economy, as evidenced by the fact that as of 2020, their remittances contributed 27% of the country's gross domestic product (one of the highest in the world).⁴ Indeed, it is estimated that more than half of all households in Nepal rely on these remittances for economic sustenance. Despite this contribution, Nepalis abroad are not able to have a say in the political process in Nepal, ie, through the constitutionally guaranteed right to vote, simply because current rules stipulate that citizens can cast their votes from their official place of residence.⁵ This, thus, has directly led to a disenfranchisement of millions of citizens.

In March 2018, the Supreme Court of Nepal, acting on the public interest litigation (PIL) filed by the Law and Policy Forum for Social Justice in Kathmandu,⁶ issued a directive to the Government

of Nepal to draft a law enabling Nepalis living abroad to be able to vote.⁷ Four years hence, this matter is still pending.

There are many reasons that could explain the delay in progress in giving effect to the Supreme Court directive (including political instability, lack of political will on the part of successive national governments, and costs to initiate and sustain such measures). For the government the primary reasons for not being able to demonstrate progress on this matter has to do with the administrative issues on ballot secrecy and transparency and the logistic issue of conducting elections in territories where they lack jurisdictional capacity (indeed, vulnerabilities in the integrity of the election processes in such scenarios are tangible).⁸

It is worth noting that the full budget of 2078/2079 (2021/22) announced in May 2021 provided for the voting rights of those abroad, including migrant workers; to date, however, the government has not even called for registration for names to be placed on the voters list. Government inaction thus has

³ This is either as diplomatic staff, students, migrant workers, or those involved with international organizations (including on UN peace-keeping missions) (see "Editorial – Voting from abroad", December 6, 2021 (<https://thehimalayantimes.com/opinion/editorial-voting-from-abroad>); accessed: 19 February 2022).

⁴ <https://kathmandupost.com/money/2020/08/04/nepal-may-see-28-7-percent-contraction-in-remittance-in-2020-highest-in-the-developing-asia-adb-says> (accessed: 15 February 2022)

⁵ Nepal's Constitution makes specific provisions for the right to vote for citizens – Article 84 relates to each citizen 18 years of age and over being able to vote in any one constituency. Article 176, however, in dealing with the State Legislature, stipulates citizens residing within the territory of the State shall have a right to vote. Relevant legislation on voter registration also makes specific reference to the rights of voters to participate in elections.

⁶ The PIL had specifically sought a legal instrument to ensure external voting apparatuses for upholding the voting right of Nepali citizens abroad.

⁷ The Supreme Court issued the following directive orders on this matter: (a) to extend the right to not just migrants but all other Nepalis living abroad (such as students); (b) to take necessary measures to arrange for record keeping/updating of Nepali nationals in diplomatic missions for those who have not renounced their Nepali citizenship; (c) to study or even conduct a pilot test to identify the appropriate modality of an external voting process; (d) to make diplomatic efforts with host countries and recruiting agencies, seeking their facilitation and coordination in the process of external voting; (e) to draft a law that would enable external voting rights for Nepali citizens abroad; and (f) to collect data and initiate the registration process of Nepali citizens living abroad without any delay.

⁸ But these valid issues are not unique to the needs of Nepal only. Scholars in the field of migration such as *Baubock, Spiro*, and *Nohlen & Grotz* have reiterated these concerns (see (i) Baubock. 2005. "Expansive Citizenship – Voting Beyond Territory and Membership" *Political Science and Politics*, 38:4 683-689; (ii) Peter J. Spiro. 2006. "Perfecting Political Diaspora" *New York University Law Review*, 81 <http://ssrn.com/abstract=876955>; and (iii) Dieter Nohlen and Florian Grotz. 2000. "Legal Framework and Overview of Electoral Legislation". *Boletin Mexicano de Derecho Comparado*, 33(99), pp. 115-146.

hindered the formulation of relevant external voting rights and preparation of the subsequent and relevant law(s).

This policy brief collates some of the policies and practices that are in evidence in selected jurisdictions on the voting rights of their citizens living abroad and how these systems work, with a concluding discussion on the parameters and principles within which the Nepal government could take this issue forward.

151 countries around the world have in place a legal framework for out-of-country voting which “expressly allows their citizens or electors who are residing outside the country, permanently or temporarily, to exercise the right to vote from abroad.”⁹ There is now a substantial body of evidence on which jurisdictions have provisions for out-of-country voting (see **Appendix 1** for a sample of these), some through postal voting and others through voting booths installed at their embassies should there be one located in those countries.

Case Study of Indonesia

A particularly applicable case study for Nepal is the electoral processes followed by Indonesia (see **Box A1** in the Appendix). The following key points stand out from the Indonesian experience that are worthy of consideration by others that wish to adopt and replicate relevant provisions:

- (a) Provisions for voting facilitated by allowing self-registration.
- (b) Varied options for voting while away from the country, including: (i) directly vote at polling stations in embassies; (ii) vote through postal service as per absentee

voting; or (iii) vote through a ballot box provided for a group of voters who gather, work, or live in one area.

- (c) Use of online methods to disseminate information about overseas voting, with the first two relying on social media (eg., Facebook); the official website of the Indonesian Embassy (in the case, in Tokyo) was also used.
- (d) Reliance on host country safeguards (such as sharing data/information) to address and stem concerns of voter fraud.

Key Takeaway for Nepal

The most important takeaway from the experiences of Indonesia is that while there is no resolute way of avoiding voter fraud, especially for a large number of voters in an extra-territorial setting, there are provisions for cooperation with host countries that facilitate the process.¹⁰ Furthermore, with increasing reliance on technology and digital literacy among the general population all over, the issues of manual and electronic voting in the polling centers can be remedied moving forward. Based on the practices of countries like Estonia and France (see **Box 1** next page), i-Voting (internet-based voting) can be used as an efficient and economical method.

Moreover, since the Ministry of Labor, Employment, and Social Security in Nepal has created the Foreign Employment Information Management System (FEIMS), each Nepali migrant worker’s information, including email details, is already recorded in the system that confirms his/her identity. This should, on the face of it, facilitate the provision of i-Voting in future

⁹ Antara, L., et al. 2018. “Out-of-Country Voting for Migrants and Refugees: Dilemmas and Best Practices.” <https://www.idea.int/news-media/news/out-country-voting-migrants-and-refugees-dilemmas-and-best-practices> (accessed: 15 February 2022)

¹⁰ International IDEA, “A Preview of the Forthcoming International IDEA Handbook on External Voting” <https://www.idea.int/sites/default/files/publications/voting-from-abroad-the-international-idea-handbook.pdf> (accessed: 15 February 2022).

Box 1. Selected Country Experiences

In **Estonia**, 44% of people vote online, an option since 2005. The preference to vote online is a function of convenience, and thus economical as well, in terms of time and costs to go and vote in a polling booth. It is also economical to the government in not having to involve costly and problematic machinery. (Source: <https://nortal.com/blog/i-voting-could-save-the-democracies-of-the-world/> (accessed: 19 Feb 2022)).

France piloted the use of online voting for voters abroad in 2003 offering this possibility for the first time during the 2012 parliamentary elections. Cell phones, tablets or computers can be used to vote online. A username and password sent by the Ministry for Europe and Foreign Affairs is required to log in to the voting platform. A helpline is available 24 hours a day while the online voting portal is open and can be reached through an online form. Security of internet voting is guaranteed under the certification obtained from an accreditation board made up of representatives of the government and the French National Agency for the Security of Information Systems. All online voting adheres to, and is in compliance with, key electoral principles (voting accessibility, secrecy of the vote, and validity of the vote).

Source: <https://www.diplomatie.gouv.fr/en/the-ministry-and-its-network/news/2021/article/reminder-communique-issued-by-the-ministry-for-europe-and-foreign-affairs>

elections at all levels.¹¹ The challenging part is that the information of the larger population of undocumented Nepalis working in India and that of migrant workers in different parts of the world entered through informal channels is not included in the FEIMS. To mitigate this problem, local governments can play a crucial role; and, as such, new policies should ensure local governments' role in external voting.

Given easy access to technology through the medium of smartphones the i-Voting system allows citizens to vote at their convenience; an added

benefit of the easy provision is that this increases the number of voters. Finally, at times of global pandemics (such as the current Covid-19) online voting minimizes health risks as well.

Key Principles to Keep in Mind

Taking a broader perspective of the issue, it is important to highlight the key principles to keep in mind on this matter. International IDEA very cogently put these forward in 2018; they continue to remain valid and applicable across jurisdictions with varied parameters to consider in electoral integrity and security:¹²

- (a) Consider the need for balance and trade-off between accessibility and inclusion as well as between electoral security and the integrity of the electoral process.
- (b) Need to take into account the democratic interests and realities of the country; in a situation where there is often a lack of full trust in the electoral system in-country this issue of accounting of interests is indeed a primary consideration. The Government needs to be in a position to assure all citizens that voting taken place 'out-of-country' was indeed rigorously monitored with the integrity of the process assured as directed by law.
- (c) Ensure that as the legislation is framed the associated regulations will need to be rigorously specified so as to facilitate effective operationalization of the law.
- (d) Take an effective risk-based approach to out-of-country voting arrangements; this

¹¹ The caveat here, however, is that without changing existing pieces of election related legislation it is not possible to use the FEIMS data. Moreover, even for this database, there is need for substantial collaboration among the Ministry of Labor, Employment, and Social Security; Ministry of Foreign Affairs; and Election Commission Nepal.

¹² International IDEA. 2018. *Out-of-Country Voting for Migrants and Refugees: Dilemmas and Best Practices* <https://www.idea.int/news-media/news/out-country-voting-migrants-and-refugees-dilemmas-and-best-practices>

will ensure that appropriate and required levels of due diligence are indeed enforced; and can be seen as such.

Conclusion

The right of an individual to freely participate in the government of his/her country, either directly or through freely chosen representatives (for which the right to vote is central) is part of the UN Universal Declaration of Human Rights (Article 21). The condition of being domiciled in the country itself in order to be able to vote goes against the grain of that fundamental right.

Nepal's legislators and policy makers would do well to take to heart the principles mentioned above as well as the evidence emerging from other jurisdictions on this important subject matter. As they begin to draft the relevant legislation as directed by the Supreme Court these issues will continue to dominate the policy debate, the right approach for which should invariably be the result of a process of negotiation and compromise among the country's various stakeholders and protagonists, which in itself, however, on the basis of current evidence appears to be in short supply.

There is also reason to doubt that the government has indeed thoroughly thought through the points raised in this policy brief. And while i-Voting shows substantial promise, and there have been rapid advancements in technology, even in Nepal, there are some prerequisites that need to be in place, including ID-card penetration.¹³ Still, given that the

risks to i-Voting can be mitigated (as evidenced from the experiences of other jurisdictions), it is the right time for the Government of Nepal to seriously consider how best to institute i-Voting measures in all future elections.

Doing so makes much sense given that physical voting arrangements in the different missions/centers in various parts of the world are heavy on transaction costs and resources. And postal voting, while still being used in practically all countries, poses constraints in a country where postal services are inadequate.

Eight countries currently (including Estonia, the undisputed leader in online voting) allow i-Voting even within the country;¹⁴ this is the way forward for other countries as well. And with examples from France where security of the internet voting is guaranteed under the certification obtained from an accreditation board, it is possible to make online voting adhere to, and be in compliance with, key electoral principles (voting accessibility, secrecy of the vote, and validity of the vote). It may be that the Government could initiate this measure in a step-wise manner with specific groups brought into the fold as the conditions warrant it.

For this, of course, communication and cooperation among all stakeholders need to begin in earnest, with the active engagement of all political parties.¹⁵ The end result of this can only be a strengthening of the federal governance system in the country.

¹³ For example, in Estonia where online voting is so widely evident, the ID-card penetration rate is 98.2% and 91.6% of the population use the internet regularly (source: <https://nortal.com/blog/i-voting-could-save-the-democracies-of-the-world/> (accessed: 19 February 2022)); Nepal is yet some distance from this level of usage.

¹⁴ <https://medium.com/edge-elections/which-countries-use-online-voting-3f7300ce2f0> (accessed: 19 February 2022).

¹⁵ Indeed, the Supreme Court in giving the directive of 2018 on out-of-country voting, had also specifically called for the

government to interact with political parties, civil society, and experts before deciding on whether postal or i-Voting would be feasible for Nepalis living abroad. This discussion should also include the subject of the voters list the preparation of which the constitution exclusively assigns to the Election Commission. It can be argued that others, such as local governments, should also have a greater role, and discussions on this need to take place with some urgency.

References

- Allam, N.S., Mustafa, F. and Ridzuan, A.R., 2021. "The Voting Decision: Social Media Use, Internal, and External Efficacy Aspects." *International Journal of Academic Research in Business and Social Sciences*. <http://dx.doi.org/10.6007/IJARBS/v11-i7/10362>.
- Aman, A. 2019. "The Perils of Out of Country Voting: The Case of Indonesia" International Institute for Democracy and Electoral Assistance. <https://www.idea.int/news-media/news/perils-out-country-voting-case-indonesia-postal-ballots>
- Antara, L., et al. 2018. "Out-of-Country Voting for Migrants and Refugees: Dilemmas and Best Practices." <https://www.idea.int/news-media/news/out-country-voting-migrants-and-refugees-dilemmas-and-best-practices>
- Baubock, R. 2005. "Expansive Citizenship – Voting Beyond Territory and Membership" *Political Science and Politics*, 38(4), pp. 683-689.
- Collyer, M., 2014. "Geography of extra-territorial citizenship: Explanations of external voting." *Migration Studies*, 2(1), pp. 55-72.
- Dieter N. and F. Grotz. 2000. "Legal Framework and Overview of Electoral Legislation." *Boletin Mexicano de Derecho Comparado*, 33(99): pp. 115-146.
- Erlingsson, H. and J. Tuman. 2017. "External Voting Rights in Latin America and the Caribbean: The Influence of Remittances, Globalization, and Partisan Control. *Latin American Policy*, 8(2), pp. 295-312.
- Fanida, E.H., D. Manda, and M. Mandagi. 2018. "Electronic Voting (E-Voting) in Indonesia: Reflection On E-Voting Practices in Some Countries." Proceedings of the 1st International Conference on Social Sciences (ICSS 2018). DOI: <https://doi.org/10.2991/icss-18.2018.34>.
- Grace, J. 2007. "External and Absentee Voting." *Challenging the Norms and Standards of Election Administration*, pp. 35-57.
- International IDEA. 2018. Out-of-Country Voting for Migrants and Refugees: Dilemmas and Best Practices <https://www.idea.int/news-media/news/out-country-voting-migrants-and-refugees-dilemmas-and-best-practices>
- International IDEA. 2006. "A Preview of the Forthcoming International IDEA Handbook on External Voting" http://www.idea.int/elections/upload/External_voting_Preview_withlayout_07june06_final.pdf
- Pokharel, B. 2021. "Rajnitik Bitta Byawasthapan: Nirwahan Sudharko Awasar," *Nepal Public Policy Review*, Kathmandu.
- Putin, S.E. 2021. "Indonesian Voting from Abroad: Highly Educated Citizen Participation in the 2019 Election at Tokyo Polling Station." *JISDeP: The Journal of Indonesia Sustainable Development Planning*, 2(1), pp. 1-14.
- Shvaikovsky, O. 2020. "i-Voting could save the democracies of the world." May 7, (<https://nortal.com/blog/i-voting-could-save-the-democracies-of-the-world/>)
- Spiro, P. 2006. "Perfecting Political Diaspora" *New York University Law Review*, 81 <http://ssrn.com/abstract=876955>

Appendix 1. Summary of Country Provisions for External Voting by Citizens who are Abroad

Country	Provision for External Voting
Argentina	<ul style="list-style-type: none"> • Law 24007 (passed in 1991) allows citizens to register to vote abroad; a 1993 decree amended the law and set up the legal framework for overseas voting • Argentinians abroad can vote for both presidential and vice-presidential candidates, as well as federal congressional candidates
Australia	<ul style="list-style-type: none"> • Australian citizens living abroad may vote if they register within three years of leaving and intend to return within six years of leaving • Voting can be done by post or at mission offices (embassy, consulate, or high commission) • Unlike sedentary Australians, voting is not compulsory for migrants
Austria	<ul style="list-style-type: none"> • Voting can be done by post in Austrian presidential and parliamentary elections, including referenda • There's no time limit, as long as voters enroll on a dedicated foreign voters register and renew their registration every ten years
Belgium (As of 2017)	<ul style="list-style-type: none"> • Possible to register to vote for regional elections, elections to the Chamber of Representatives, and the European Parliament • Citizens temporarily abroad (including students) can vote by proxy on election day • Voting rights are extended to Belgians living in a non-EU member state • Once registered in a consular post (optional), there is compulsory voting
Bhutan (as of 2018)	<ul style="list-style-type: none"> • Certain groups (civil servants, diplomats, military personnel, election officials, and students) are eligible to vote by postal ballot
Bolivia	<ul style="list-style-type: none"> • Electoral code of 1984 allows citizens to vote for president and vice-president abroad
Brazil	<ul style="list-style-type: none"> • Can cast ballots only for presidential elections by voting in mission offices
Canada	<ul style="list-style-type: none"> • Can vote in federal election by post or in person, no matter how long they've lived outside the country • Before 2019, there was a time restriction of 5 years. Only citizens that lived outside the country for less than 5 consecutive years were allowed to vote. But in January 2019, the Supreme Court of Canada struck down the restrictions through <i>Frank v Canada</i> (initially, restrictions were upheld in the Ontario Court of Appeal)
Chile	<ul style="list-style-type: none"> • Have the right to vote in presidential elections and national referenda in the consulate where they registered • Right to external voting was passed in August 2016 and citizens abroad were allowed to vote in the 2017 Presidential elections
Colombia	<ul style="list-style-type: none"> • No time restrictions in terms of being abroad; citizens enjoy full voting rights in national referenda, presidential, and parliamentary elections • To vote, those living abroad have to register in their respective consulate or embassy in the established periods before the election dates
Costa Rica	<ul style="list-style-type: none"> • Can vote for president and national referendum regardless of how long they have been out of the country since the Electoral Code's reform in 2010 • They cannot vote in local elections which includes deputies and municipal authorities • Votes are cast in the respective consulate/embassy as long as they register their location a year before the election
Czech Republic	<ul style="list-style-type: none"> • Can participate in parliamentary elections • Votes must be cast at polling stations

	<ul style="list-style-type: none"> Provisions for vote by post are being considered after the difficulties in the 2021 election
Denmark	<ul style="list-style-type: none"> Can vote in parliamentary elections, referenda, and EU Parliament elections (no local elections) for two years after their move Exception to the time limit is granted for individuals working for the Danish government, and on job assignments for Danish employers Also, Danes living in EU countries can continue voting for EU Parliament elections with no restrictions
Dominican Republic	<ul style="list-style-type: none"> Those living abroad can vote for presidential and legislative elections
Ecuador	<ul style="list-style-type: none"> Citizens living overseas can vote for president and vice president since 2006. They were also able to vote on referendums in 2007, 2008 and 2011 through their respective embassies and consulates
Finland	<ul style="list-style-type: none"> Finns living abroad are eligible to vote in parliamentary elections and presidential elections through polling stations They may also vote in elections for the European Parliament in case they have not registered to vote in their country of residence
France	<ul style="list-style-type: none"> Citizens abroad enjoy full voting rights in presidential and parliamentary elections with no time restrictions
Germany	<ul style="list-style-type: none"> Germans staying abroad who do not have a registered domicile in Germany are not automatically entered into a voters' register. If German expatriates wish to participate in <i>Bundestag</i> elections, they have to submit a written application for entry into the voters' register before each election. German who stay abroad temporarily may exercise their right to vote by postal ballot.
Honduras	<ul style="list-style-type: none"> Allows citizens abroad to vote in presidential elections at their consular offices Voters must register with the National Electoral Census before voting, and are required to have a Honduran ID card
India	<ul style="list-style-type: none"> Overseas voters must be physically present at their original constituency to vote, making it unfeasible for most migrants to actually cast their votes
Indonesia	<ul style="list-style-type: none"> Overseas voters can use one of the three voting methods provided: (i) directly vote at polling stations in embassies; (ii) vote through postal service as per absentee voting; or (iii) through a ballot box which is provided for a group of voters who gather, work, or live in one area. See Box A1 below for further details.
Ireland	<ul style="list-style-type: none"> Only citizens intending to return to Ireland within eighteen months can retain their Irish address for electoral purposes However, they must be present to vote in person which is not always feasible
Israel	<ul style="list-style-type: none"> May vote regardless of their current resident status However, in practice, Israeli migrants are required to travel back to Israel to vote as voting is only possible in ballot boxes (set only in Israel and occupied Palestinian territories)
Italy	<ul style="list-style-type: none"> Retain the right to vote in Italian parliamentary elections and referenda They can vote either by post or at an Italian consulate or embassy In countries with no diplomatic representation, migrants have to come back to Italy to vote. But 75% of their travel costs are reimbursed by the Italian government
Japan	<ul style="list-style-type: none"> Japanese citizens overseas have been allowed to vote in Diet elections since 2005, when the Supreme Court ruled that a ban on eligible overseas Japanese citizens from voting was unconstitutional They can vote either by post or at their local Japanese embassy or consulate

Luxembourg	<ul style="list-style-type: none"> • May vote in parliamentary elections and referenda, but not local elections
Malta	<ul style="list-style-type: none"> • Can only vote if physically present in Malta on election day, at own expense • Attempts and petitions have been made to allow Maltese migrants to vote by post
Mexico	<ul style="list-style-type: none"> • Starting 2021, electronic voting is allowed
Namibia	<ul style="list-style-type: none"> • Can vote at temporary registration points, usually set up at Namibian embassies or high commissions
Netherlands	<ul style="list-style-type: none"> • Must register as voters in their respective missions in order to vote from abroad
New Zealand	<ul style="list-style-type: none"> • If citizens fail to travel back in three years' time, they lose their voting rights temporarily
Nigeria	<ul style="list-style-type: none"> • In 2021, the Minister of State for Foreign Affairs Zubairu Dada reiterated the Government's intent to enact diaspora voting, but that doesn't look possible for the 2023 Nigerian general elections
Pakistan	<ul style="list-style-type: none"> • As of provisions of voting procedure for Overseas Pakistanis, "on polling day, the voter shall log in to the overseas voting system using his username and password and shall avail the voting option from the system for casting his vote in respect of his National Assembly, or, as the case may be, Provincial Assembly Constituency by entering unique passcode" (https://www.idea.int/data-tools/country-view/241/52)
Panama	<ul style="list-style-type: none"> • Since 2006, Panamanians abroad can vote for the president and vice-president through mail-in ballots once they have been admitted in the voter registry • However, Panamanians who acquired citizenship abroad cannot vote
Paraguay	<ul style="list-style-type: none"> • Paraguayans living abroad can vote in their consular services if they have a national identification card • An amendment to allow Paraguayans to use their passport to vote failed to pass in Congress which is a major inconvenience for voters with expired national identification
Peru	<ul style="list-style-type: none"> • Have the right to vote in presidential elections, congressional elections, and elections for representative to the Andean Parliament and the National Referenda through the registered consulate or embassy
Philippines	<ul style="list-style-type: none"> • Allowed to vote with no expiry date through in person voting in polling stations
Poland	<ul style="list-style-type: none"> • Can vote abroad in the presidential elections, parliamentary elections, European Parliament, and referendum but not in the local elections • In the 2020 presidential elections, there were 169 polling stations abroad (Germany, 15; UK, 11; USA, 9; 4 polling districts on ships; and another 4 on oil platforms)
Portugal	<ul style="list-style-type: none"> • Article 49 of the Portuguese Constitution grants all citizens the right to vote, irrespective of residency through their consulates and embassies
Romania	<ul style="list-style-type: none"> • May vote in presidential, parliamentary, and European Parliament elections • For presidential elections, they can vote by registering for a postal vote or by going to a polling station abroad
Singapore	<ul style="list-style-type: none"> • May vote in presidential and parliamentary elections, with no expiry date • However, they may only vote in person at one of ten designated overseas polling stations located in Australia, China (Beijing and Shanghai), Japan, Hong Kong, the UAE, the UK and the USA (New York City, San Francisco and Washington DC)
South Africa	<ul style="list-style-type: none"> • Have the right to vote in national elections, with no expiry date • They can vote in person at a South African embassy, consulate, or high commission.
Spain	<ul style="list-style-type: none"> • Have the right to vote through Spanish consulate, embassy, or by post
Sri Lanka	<ul style="list-style-type: none"> • Sri Lankans cannot vote from abroad. There is an ongoing debate about allowing external voting for the country's migrant population (estimated to be about 2 million)

Sweden	<ul style="list-style-type: none"> • Automatically entitled to vote in <i>Riksdag</i> elections and European Parliamentary elections for a period of 10 years after leaving Sweden. After that, they must renew their electoral registration • Voting takes place either by post or at Swedish embassies
Switzerland	<ul style="list-style-type: none"> • Can vote for elections in the National Council and in federal referenda once they register with the relevant Swiss representation abroad
Tunisia	<ul style="list-style-type: none"> • Have been granted the right to vote in presidential elections since 1988 and additionally in parliamentary elections since 2011
Turkey	<ul style="list-style-type: none"> • May vote in presidential and parliamentary elections as well as referenda from their country of residence since 2012
United Kingdom	<ul style="list-style-type: none"> • May vote in UK general elections and referenda for 15 years following their official date of leaving UK, followed by updating the electoral register • British migrants living in EU member states for more than 15 years were not allowed to vote in referenda; the Conservative Government elected in December 2019 pledged to remove the 15-year rule and allow migrants to keep their UK vote for life
United States	<ul style="list-style-type: none"> • Citizens abroad enjoy full federal voting rights regardless of how long they have lived abroad through absentee ballot by email, fax, or internet download, depending on the state they are eligible to vote in
Venezuela	<ul style="list-style-type: none"> • As of 2003, Venezuelans abroad can vote from abroad as long as they are enrolled in the Electoral Registry at their local consulate • Voters must provide proof of their citizenship and their legal right to reside abroad to register and cast votes in the consular offices

Source: Information on this table is referenced from various sources, primarily national election commissions, national newspapers, and the International Institute for Democracy and Electoral Assistance (IDEA), <https://www.idea.int/data-tools/data/voting-abroad> (accessed: 15 February 2022). The list of sources referenced here is available upon request.

The particular case of Indonesia is presented here for lengthier treatment (see Box A1 below).

Box A1. Indonesian elections as a case study for logistic issues

Indonesia is one of the first developing countries that recognized and implemented external voting rights. Since legislating external voting in 1953, it has conducted 16 sessions of presidential and parliamentary elections. In doing so, numerous polling stations were built at all embassies and consulates abroad to facilitate the voting. Based on the National Election Commission (KPU) report, 130 overseas polling stations were established to facilitate about 2 million overseas voters in the 2019 parliamentary and presidential elections.¹ Furthermore, provisions for voting were made easier by allowing provisions for self-registration. Reports showed that about 75% of the respondents registered themselves as voters, and 22% were automatically registered based on participation from past elections.²

In terms of voting, Indonesian overseas voters can use one of the three voting methods provided. Migrants can either directly vote at polling stations in embassies, vote through postal service as per absentee voting, or voting is also made possible through a ballot box which is provided for a group of voters who gather, work, or live in one area. In the 2019 elections, the government provided 789 polling stations, 2,354 ballot boxes, and 438 postal service units to 130 locations in 96 countries.³ Here, to facilitate the organization and logistic aspect of voting, three online accounts were used to disseminate information about overseas voting, in Tokyo. The first two relied on social media. The Indonesian government created Facebook pages to interact with voters, provide comprehensive information and progressively update people on how the voting was being carried out. The third form of communication took place through the official website of the Indonesian Embassy.

However, there were some concerns about voter fraud in some places. Indonesian migrants posted pictures and videos of pre-marked ballots and people tampering with the sealed envelopes in Kuala Lumpur.⁴ With contents posted on social media, this soon turned into a massive scandal and KPU had to act swiftly. In addressing the situation, the Electoral Commission of Indonesia contacted the Malay Police to avoid any further incidents of fraud. This provision was mandated based on the International IDEA's Voting from Abroad Handbook, which specifies "host countries can help by guaranteeing certain safeguards to protect against fraud. The host country may be able to provide invaluable assistance in this regard, particularly in terms of sharing data."⁵ In similar context, countries like Botswana carry out external voting two weeks before the general election to adequately address and assign the time and manpower to conduct fair elections abroad.

Now, personal voting at diplomatic missions in foreign countries and postal voting are among the most expensive forms of voting. In this context, the consideration may be given to replace some paper-based procedures with electronic ballot paper, during external voting. France started piloting the use of online voting for voters abroad in 2003, which was implemented in the 2012 parliamentary elections. Shortly after the introduction, online voting was the first preference for half of the voters living abroad. Estonia, too, relied on internet voting for its 2015 Parliamentary elections where 30.5% online votes were cast from 116 different countries.⁵

Notes:

1. Fanida, E.H., Manda, D. and Mandagi, M., 2018. "Electronic Voting (E-Voting) in Indonesia: Reflection on E-Voting Practices in Some Countries." *Universitas Negri Manado*. DOI: <https://doi.org/10.2991/icss-18.2018.34>
2. Ibid.
3. Ibid.
4. Aman, Adhyan. 2019. "The Perils of Out of Country Voting: The Case of Indonesia" International Institute for Democracy and Electoral Assistance. <https://www.idea.int/news-media/news/perils-out-country-voting-case-indonesia-postal-ballots> (accessed: 15 Feb 2022)
5. Estonian internet voting. 2015. *European Union: CEF Digital Connecting Europe*. <https://ec.europa.eu/digital-building-blocks/wikis/display/CEFDIGITAL/2019/07/29/Estonian+Internet+voting> (accessed: 15 Feb 2022)

Issue Number 3

February 2022

NPI Policy Brief Series

A knowledge product and services initiative of the Nepal Policy Institute (The Hague, and Kathmandu)



About Nepal Policy Institute

Nepal Policy Institute (NPI) is an international think-tank and a knowledge-platform dedicated to the people-centred and sustainable development of Nepal and Nepali people, including diaspora Nepali.

We are a forum of Nepal origin public policy scholars, researchers, practitioners, experts, and consultants across the globe, in collaboration and partnership with people and institutions anywhere and everywhere working in the interest of Nepal and Nepali people, including diaspora Nepali. This is a borderless organisation working and connecting people in the cloud, land, and the space in between.

We are registered as a not-for-profit, non-party political, non-religious, and non-governmental Stichting (foundation) in The Hague, The Netherlands, and Kathmandu Nepal.

Our mission is to provide and promote the knowledge and public discourse about public policy for the prosperity, peace, and sustainable development of Nepal and Nepali people anywhere and everywhere.

Contact:

The Hague and Kathmandu

E-mail: info@nepalpolicyinstitute.org

Web: www.nepalpolicyinstitute.org